

MINUTES OF THE REGULAR MEETING OF NOVEMBER 29, 1990

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, November 29, 1990, at 7:45 P.M. in the County Council Chambers, Room 115, the Courthouse, Georgetown, Delaware, with the following present:

Mr. Allen, Mr. Ralph, Mrs. Monaco, Mr. Hickman, Mr. Smith, Mr. Berl - Attorney, Mr. Lank - Director, and Mr. Moore - Planner I.

Motion made by Mr. Smith, seconded by Mr. Hickman, and carried unanimously to approve the minutes of November 15, 1990, as circulated.

PUBLIC HEARINGS

1. RE: Subdiv. #90-31--Donald Riggins

Danny Morris, Coast Survey, Inc., and Donald Riggins, developer, were present on behalf of this application to consider the Subdivision of land in a AR-1 Agricultural Residential Zoning District in Lewes and Rehoboth Hundred by dividing 36.7 acres into 29 lots, located on the southeast side of Route 266, 2,300 feet north of Route 266A.

Mr. Moore summarized comments from the November 19, 1990, Technical Advisory Committee Meeting.

Mr. Morris stated that the applicant will comply with the recommendations of the Technical Advisory Committee.

No one was present in favor of the application.

No one was present in opposition to the application.

At the conclusion of the public hearings, the Chairman referred back to this application.

Mr. Moore stated that the feasibility for on-site waste water has not been obtained.

Motion made by Mr. Smith, seconded by Mr. Hickman, and carried unanimously to defer action pending receipt of feasibility for on-site waste water disposal.

2. RE: Subdiv. #90-32--Route One Limited Partnership

Eugene Bayard, attorney, Larry Steele, attorney, Jeff Clark, Land Tech, Inc., and Mike Badger, developer, were present on behalf of this application to consider the Subdivision of land in an MR Medium Density Residential Zoning District in Baltimore Hundred by dividing 19.95 acres into 47 lots, located on the west side of Route One, 5,900 feet north of Route 360.

Mr. Moore summarized comments from the November 19, 1990, Technical Advisory Committee Meeting.

Mr. Bayard questioned Mr. Clark as to the merits of the application and the proposed subdivision plan.

Mr. Clark presented written documentation of availability of central water supplied by Sussex Shores Water Co., capability to connect to the North Bethany Sanitary Sewer District, and a report from Environmental Consulting Services, Inc., stating that the jurisdictional request form had been sent to the U. S. Army Corps of Engineers.

Mr. Moore questioned the proposed use of the existing fifty (50) foot right of way extending along the north side of the site, and questioned whether or not the existing ditches connecting to the lagoon were tidal tributaries.

Mr. Bayard stated that the fifty (50) foot right of way may be retained as an emergency access, that no major access was proposed to adjacent properties, that the lagoon was controlled by a flood gate, and the existing ditches are not tidal.

Mr. Badger stated that the proposed recreation area would contain a swimming pool, changing room, and parking area.

Mr. Moore expressed concern as to the proposed access to the recreation area.

Mr. Clark stated that a revision to the plan, to move the entrance to the recreation area further from Route One, was being developed.

No one was present in favor of the application.

Pat Ficken, Coalition of Coastal Communities, spoke in opposition stating concerns for loss of wetlands, wildlife habitat, and access to the beaches.

Bernie Kostelnik spoke expressing concerns as to the lot width, and requesting that the principals of Route One Limited Partnership be stated for the record.

At the conclusion of the public hearings, the Chairman referred back to this application.

The Commission discussed the points and issues raised during the public hearing.

Motion made by Mr. Hickman, seconded by Mr. Smith, and carried 4-1, with Mrs. Monaco opposed, to approve the application as a preliminary with the stipulation that prior to final review, all requests by the Technical Advisory Committee are met and all final approvals obtained.

3. RE: Subdiv. #90-33--Gerald Hickman

Jeff Clark, Land Tech, Inc. and Gerald Hickman, developer, were present on behalf of this application to consider the Subdivision of land in an AR-1 Agricultural Residential Zoning District in Baltimore Hundred by dividing 16.9 acres into 3 lots, located on the west side of Route 348, 1,450 feet north of Route 346, and a variance from the required 600 foot maximum cul-de-sac length.

Mr. Moore summarized comments from the November 19, 1990, Technical Advisory Committee Meeting.

Mr. Moore stated that the entrance permit has been approved.

Mr. Clark requested that the County Engineer's request that a ten (10) foot buffer from the proposed right of way and the adjacent property of Robert Svenson be waived, and that the proposed right of way be the center line of the two properties.

Mr. Svenson, adjacent property owner, spoke in support of the statement.

No one was present in opposition.

At the conclusion of the public hearings, the Chairman referred back to this application.

Motion made by Mr. Hickman, seconded by Mr. Smith, and carried unanimously to approve the subdivision as a preliminary, and to allow the proposed revised right of way alignment.

4. RE: Subdiv. #90-34--Clifford Lindale

Eugene Bayard, attorney, and Clifford Lindale, developer, were present on behalf of this application to consider the Subdivision of land in an AR-1 Agricultural Residential Zoning

District in Cedar Creek Hundred by dividing 8.8 acres into 9 lots, located on the north side of Route 36, 800 feet east of Route 615.

Mr. Moore summarized comments from the November 19, 1990, Technical Advisory Committee Meeting.

Mr. Lindale submitted a revised preliminary plat which reduces the number of lots from 9 to 6.

Mr. Bayard questioned Mr. Lindale as to the merits of the application, and stated that Mr. Lindale was aware of the agricultural activities that may occur in the area. However, those practices are protected by State law.

Scott Rathfon, adjacent property owner, read a statement in support of the application.

Edward Waishes, local resident, spoke in opposition to the application.

At the conclusion of the public hearings, the Chairman referred back to this application.

The Commission discussed the points and issues raised at the public hearing.

Motion made by Mrs. Monaco, seconded by Mr. Hickman, and carried unanimously to approve the subdivision as a preliminary.

5. RE: ~~RE~~div. #90-35--Delmar Feed Mills, Inc.

Lee Littleton, developer, was present on behalf of this application to consider the Subdivision of land in an AR-1 Agricultural Residential Zoning District in Seaford Hundred by dividing 42.2 acres into 32 lots, located on the southeast side of Route 536, 900 feet east of Route 542.

Mr. Moore summarized comments from the November 19, 1990, Technical Advisory Committee Meeting.

Mr. Littleton agreed to comply with the comments from the Technical Advisory Committee meeting.

No one was present in favor of the application.

No one was present in opposition.

At the conclusion of the public hearings, the Chairman referred back to this application.

The Commission discussed the points and issues raised at the public hearing.

Mr. Moore stated that the feasibility for on-site waste disposal has not been obtained, that a site easement along the adjacent lots, owned by Mr. Littleton, needs to be established, and a building restriction line along the areas of severe slope needs to be established.

Motion made by Mrs. Monaco, seconded by Mr. Ralph, and carried unanimously to defer action pending receipt of the waste water feasibility, approved site easement and building restriction line.

6. RE: Subdiv. #90-36--Robert and John Furbush

Pete Loewenstein, surveyor, was present on behalf of this application to consider the Subdivision of land in an AR-1 Agricultural Residential Zoning District in Baltimore Hundred by dividing 34.3 acres into 24 lots, located on the west side of Route 345, 2,950 feet north of Route 26.

Mr. Moore summarized comments from the November 19, 1990, Technical Advisory Committee Meeting.

Mr. Moore asked Andy Lorenz, D.N.R.E.C., to clarify the comments from the D.N.R.E.C. Water Supply Branch.

Mr. Lorenz stated that subdivisions not recorded prior to the Secretary of the D.N.R.E.C. signing the proposed water supply regulations will require a central water supply.

Mr. Loewenstein stated that there were no state or federally regulated wetlands on the site, and that the area labeled reserved may be for future development if the land is suitable and central sewer becomes available.

No one was present in favor of the application.

George West, farmer adjacent to the site, spoke expressing concerns as to the presence of farm operations in the immediate area.

Mrs. Clark, adjacent property owner, questioned the time period for a final approval and the possible affects to her well and septic system.

At the conclusion of the public hearings, the Chairman referred back to this application.

Mr. Moore stated that feasibility for on-site waste disposal has not been obtained.

Motion made by Mr. Hickman, seconded by Mr. Smith, and carried unanimously to defer action pending receipt of waste water feasibility.

OLD BUSINESS

1. RE: C/U #954--Edward J. Kaye

No parties were present on behalf of this application to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Nanticoke Hundred for a 102.87 Acre Expansion to an Existing Borrow Pit and Placement and Operation of a Stump Shredding Device and a Concrete Crushing Device 500 feet west of Route 525, 1,200 feet north of Route 526, and to be located on a parcel containing 102.87 acres more or less.

Mr. Lank advised the Commission that he had been on-site Wednesday, November 28, 1990, and had requested that the applicant's surveyor stake the northerly limit of the original borrow pit and that he had returned Thursday, November 29, 1990, and reviewed the line as established by the surveyor. The surveyor's line established that approximately four (4) to five (5) acres of additional land disturbances have taken place.

Mr. Lank advised the Commission that the applicant's surveyor was on-site on November 28, 1990, to establish the boundaries of the woodlands on-site, and that a revised plat was being prepared which would probably reduce the proposed acreage for the borrow pit expansion. The map has not been received.

Mr. Lank submitted xerox copies of the information presented to the Commission by the opposition in their presentation. The information was presented in a brochure that was introduced at the County Council hearing on this application on Tuesday, November 27, 1990.

Mr. Lank also submitted a xerox copy of some suggested stipulations from the applicant.

The Commission discussed the points and issues raised during the public hearing.

Motion made by Mrs. Monaco, seconded by Mr. Ralph, and carried unanimously to defer action pending receipt of a copy of the survey depicting the woodland boundaries on-site.

2. RE: C/Z #1096--W. Nelson Hall

No parties were present on behalf of this application to amend the zoning map from AR-1 Agricultural Residential to GR General Residential in Cedar Creek Hundred, located on the north side of Route 228, 200 feet west of Route 30, and to be located on a parcel containing 18.60 acres more or less.

Mr. Moore advised the Commission that no detailed comments have been received from the electrical utility for the area in reference to streets under power lines.

Motion made by Mr. Smith, seconded by Mr. Hickman, and carried unanimously to defer action.

3. RE: C/Z #1097--Charles R. and Marie E. Bradley

No parties were present on behalf of this application to amend the zoning map from AR-1 Agricultural Residential to B-1 Neighborhood Business in Broad Creek Hundred, located on the north side of Route 20, 500 feet west of Route 485B, and to be located on a parcel containing 1.526 acres more or less.

The Commission discussed the points and issues raised during the public hearing which was held on November 15, 1990.

Motion made by Mrs. Monaco, seconded by Mr. Ralph, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved since B-1 Neighborhood Business is intended to serve the community and neighborhood, since modernization of improvements is an advantage and should eliminate parking on the highway (Route 20), improve lighting, and be safer than the existing use.

4. RE: Subdiv. #89-19--Piney Neck Estates

The Commission reviewed the final plot plan for the proposed 13 lot subdivision.

No one was present on behalf of the application.

Mr. Moore stated that all approvals have been obtained.

Motion made by Mr. Hickman, seconded by Mr. Smith, and carried unanimously to approve the subdivision as a final.

5. RE: Subdiv. #89-9--Kime Circle

Mr. Moore summarized a request from Ted Simpler asking for a one (1) year time extension for the preliminary approval.

Motion made by Mrs. Monaco, seconded by Mr. Ralph, and carried unanimously to approve the one (1) year time extension.

6. RE: Fifty (50) Foot Right Of Way
Discussion

Mr. Moore raised several questions pertaining to proposed subdivisions on existing right of ways and existing streets.

Mr. Berl stated that he would report back to the Commission at the next meeting concerning this matter.

Meeting Adjourned 9:45 P.M.

Lawrence B. Lank, Secretary